

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TRANS-SPEC TRUCK SERVICE, INC.	)	
d/b/a TRUCK SERVICE,	)	
	)	
Plaintiff	)	
	)	
vs.	)	CIVIL ACTION NO. 04-11836-RCL
	)	
CATERPILLAR INC.	)	
	)	
Defendant	)	

CATERPILLAR INC.'S REQUEST FOR RECONSIDERATION BY DISTRICT COURT  
JUDGE OF MAGISTRATE-JUDGE'S RULING ON PLAINTIFF'S EMERGENCY [SIC]  
MOTION TO EXTEND THE DISCOVERY DEADLINE AND TO REQUIRE PRODUCTION  
OF DOCUMENTS

The defendant Caterpillar Inc. hereby requests reconsideration pursuant to 28 U.S.C. §636(b)(1)(A) and Fed. R. Civ. P. 72(a) of the June 1, 2006, order of Magistrate-Judge Alexander granting the motion entitled Emergency Motion of the Plaintiff to Compel Production of Documents and to Extend Expert Discovery Period (the "June 1 order"). A copy of the June 1 order is attached hereto. It reads in its entirety:

It is hereby ordered that the depositions noticed by Trans-Spec be taken on or before June 30, 2006, notwithstanding the objection of Caterpillar's counsel, who it must be noted, requested sanctions for preparing for the depositions. The documents requested by Trans-Spec, must be produced by June 14, 2006.

Neither the June 1 order nor the Magistrate-Judge's remarks at the hearing (as to which *see* the transcript of the hearing attached as Exhibit A to the accompanying memorandum) identify the basis for her order.

If the Magistrate-Judge granted the motion without first finding that Trans-Spec could not, by exercising reasonable diligence, have met the scheduling order deadline, then she

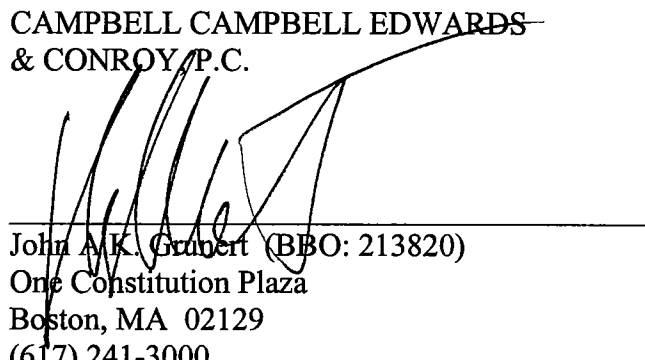
committed error of law. If the Magistrate-Judge did make such a finding, the finding is clearly erroneous because there was no evidentiary basis or other basis in the record to support such a finding. Caterpillar refers the Court to the accompanying memorandum and exhibits in further support of this request.

WHEREFORE, Caterpillar asks the Court to reverse the Magistrate-Judge's June 1 order and enter its own order denying Trans-Spec's motion in its entirety.

CATERPILLAR INC.,

By its attorneys,


CAMPBELL CAMPBELL EDWARDS  
& CONROY P.C.



\_\_\_\_\_  
John A.K. Grunert (BBO: 213820)  
One Constitution Plaza  
Boston, MA 02129  
(617) 241-3000

CERTIFICATE OF SERVICE

I, Christopher Parkerson, hereby certify that on June <sup>9</sup>, 2006, I served the within request by causing a copy to be transmitted electronically to Christian Samito, Esquire, Donovan Hatem LLP, 2 Seaport Lane, Boston, MA 02210.



\_\_\_\_\_  
Christopher Parkerson

**McLaughlin, Mary Beth**

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**From:** Grunert, John A.K.  
**Sent:** Thursday, June 01, 2006 11:09 AM  
**To:** McLaughlin, Mary Beth  
**Subject:** FW: Activity in Case 1:04-cv-11836-RCL Trans-Spec Truck Service Inc. v. Caterpillar Inc. "Order"

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**From:** ECFnotice@mad.uscourts.gov[SMTP:ECFNOTICE@MAD.USCOURTS.GOV]  
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**United States District Court**

**District of Massachusetts**

Notice of Electronic Filing

The following transaction was received from Lovett, Jarrett entered on 6/1/2006 at 10:52 AM EDT and filed on 5/31/2006

**Case Name:** Trans-Spec Truck Service Inc. v. Caterpillar Inc.

**Case Number:** 1:04-cv-11836

**Filer:**

**Document Number:**

**Docket Text:**

Magistrate Judge Joyce London Alexander : Electronic ORDER entered: It is hereby ordered that the depositions noticed by Trans- Spec be taken on or before June 30, 2006, notwithstanding the objection of Caterpillar's counsel, who it must be noted, requested sanctions for preparing for the depositions. The documents requested by Trans-Spec, must be produced by June 14, 2006. (Lovett, Jarrett)

The following document(s) are associated with this transaction:

**1:04-cv-11836 Notice will be electronically mailed to:**

Richard P. Campbell rpcampbell@campbell-trial-lawyers.com

John A.K. Grunert jgrunert@campbell-trial-lawyers.com

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6/1/2006